

or more pumps...". In the Federal Suit brought by Oceaneering International, Inc. v. Valkyrie, this is the issue. However, the number of pumps per se was not at issue with the Examiner, only the function of the pumps in the Graves patent.

The combination of the Bliss et al. and Graves references are the same references over which the Examiner granted the original patent, finding reasons for allowance.

It is respectfully submitted that this factual inquiry is no different than that considered in the original Patent claims and the legal conclusion should be the same. As argued in the original application, the Graves et al. patent **fails** to disclose nor make any suggestion that water is pumped to a test pressure (i.e. hydrostatic testing pressure) and accordingly, the references fail to make obvious a method where the pipeline is subsea and a package having **one or more pumps**, which is also subsea, pump water into the pipeline to carry out a hydrostatic testing method.

The inclusion of the Matthews, Jr. patent is not understandable. As recognized by the Examiner, this patent teaches pumping water **out** of the pipeline with a pump at the seafloor. There is nothing in Applicants claims dealing with pumping water **out** of the pipeline. There is nothing in Matthews patent dealing with pumping water **into** a pipeline or raising the pressure by pumping still more water into the pipeline for a hydrostatic test. The factual inquiry between the claimed invention and Matthews should make clear that the

Matthews patent is not relevant, either to the invention of Applicant's claims or in any combination. How the Matthews patent and the Bliss and Graves et al. patents are to be combined to disclose or make obvious the claimed invention, is not understood. The reasoning of the Examiner is clearly in error.

It is respectfully submitted that reissue claims 1, 4, 5, 6, and 9 are not shown obvious over the cited combination of references and therefore should be allowed.

The rejection of Claim 2 under 35 USC 103(a) as being unpatentable over Bliss et al. (US Patent 5,883,303) as modified by Graves (US Patent 5,927,901) and Matthews, Jr. (US Patent 3,777,499) and applied to claim 1 above and further in view of Adkins et al. (4,332,277) and the rejection of Claim 3 under 35 USC 103(a) as being unpatentable over Bliss et al. (US Patent 5,883,303) as modified by Graves (US Patent 5,927,901) and Matthews, Jr. (US Patent 3,777,499) and applied to claim 1 above and further in view of Corbetta (US Patent 6,234,717) are both respectfully traversed. Claims 2 and 3 are dependant claims to claim 1. Neither the Adkins et al. or Corbetta patents are cited by the Examiner to address any factual issue in the determination of differences between the claimed invention and the references raised by claim 1 and accordingly, the response to claim 1 is equally applicable to the patentability of claims 2 and 3 and therefore should be allowed.

The rejection of Claims 7 and 8 under 35 USC 103(a) as being

unpatentable over Bliss et al. (US Patent 5,883,303) in view of Graves (US Patent 5,927,901) is respectfully traversed. The argument is the same as to claim1, both in the original Patent claim and the present reissue claim. It is respectfully submitted that the material factual inquiry is no different than that of the original Patent claims and the legal conclusion should be the same. As argued in the original application, the Graves et al. patent fails to disclose or make any suggestion that water is pumped to a test pressure (i.e. hydrostatic testing pressure) and accordingly, the references fail to make obvious a method where the pipeline is subsea and a package having one or more pumps, which is also subsea, pump water into the pipeline to carry out a hydrostatic testing method.

The Examiner is informed that besides the Federal Law Suit, Valkyrie sued Oceaneering International, Inc. in a State District Court in Houston, Harris County, Texas for breach of contract (Confidential Disclosure Agreement). The Agreement having an Arbitration Clause, was then arbitrated before a panel in Houston, Texas. The style of the arbitration was:

AMERICAN ARBITRATION ASSOCIATION:
VALKYRIE COMMISSIONING SERVICES v. OCEANEERING INTERNATIONAL,
INC.; Matter No.: 70 Y 198 00637 03

In defending the breach of contract, allegations were made that the confidential information was known. In this regard, certain proprietary documents were produced. The arbitration ended in a Settlement Agreement wherein Oceaneering paid Valkyrie a large sum for a limited license (See Copy

of Agreement in E 9). The proprietary documents were sent to the undersigned on or about February 1, 2005, and are submitted as part of this Response to the Office Action with the appropriate IDS by Applicants and a check for \$180 per 37 CFR 1.17 (p).

The documents are submitted by the Assignee of the present Reissue application, Valkyrie Commissioning Services, Inc., as a party to the arbitration and for the inventors in this application. As such, they have a duty covered by 37 CFR 1.56 and 1.555 to disclose to the Patent Office information they become aware of which may be material to patentability. Permission was given provided the documents were maintained as confidential and PROPRIETARY MATERIAL.

The PROPRIETARY MATERIAL is submitted according to the provisions of the MANUAL OF PATENT EXAMING PROCEDURE, § 724 -724.02. Accordingly, the MATERIAL is in nine brown mailing envelopes, marked:

PROPRIETARY MATERIAL NOT OPEN TO PUBLIC.
TO BE OPENED **ONLY** BY EXAMINER OR
OTHER AUTHORIZED U.S. PATENT
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>DO NOT SCAN<

**In re Application of David M. Tucker et al.
Application Serial No. 10/716,248
Filed: 02/13/2003
For: Subsea Vehicle Assisted
Pipeline Commissioning Method**

Enclosed is an Information Disclosure Statement by Applicant which lists the document in each brown envelope, Cite No. corresponding to the envelope no., thus the document listed as Cite No.1 on the IDS is in E 1, etc.

As to the Office Action, Applicants have answered each ground or rejection and respectfully submit that the claims are allowable. Accordingly a notice of allowance is respectfully requested.

Respectfully submitted,

Kurt S. Myers
Attorney for Applicant
Registration No. 20,244
7634 Braesdale
Houston, Texas 77071
(713) 774-7152

CERTIFICATE OF MAILING

I hereby certify that this Response to Office Action is being deposited with the U.S. Postal Service as Express Mail (ER 450181584 US) in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA. 22313-1450 on March __, 2005.

Kurt S. Myers